REMARKS/ARGUMENTS:

Claims 1, 11, and 19 are amended. Claims 1-24 are pending in the application. Reexamination and reconsideration of the application, as amended, are respectfully requested.

The Examiner, in the Advisory Action dated October 3, 2005 states,

> "Applicants have amended their claims to recite that the inner wheel contains vessels for incubation and the outer wheel contains the same vessels for washing and reading. The Examiner does not agree that by amending the claims to recite 'said vessel', Applicants have overcome the rejection over Tersteeg in view of Minekane and Kerr. The amendment 'said vessels' amends the function of the outer wheel. It does amend the claims structurally. MPEP 2114 states that apparatus claims must be distinguished from the prior art in terms of their structure, not function. Applicants' amendment does not structurally distinguish the instant invention over the prior art."

The Applicant respectfully disagrees. The Applicant respectfully submits that the ability of the inner and outer wheels to contain the same vessels is a structural limitation. Furthermore, the claims already recite that the wheels have nesting locations for the vessels. However, in order to expedite the prosecution of the instant application, the Applicant amended the claims to positively recite that the outside and inside rotary wheels are configured for using said vessels.

Therefore, the present claims define an analyzer station with an inner wheel for incubation of vessels and an outer wheel for washing and reading those same vessels, wherein pick and place assemblies transfer these vessels between the inside rotary wheel and outside rotary wheel. This limitation is neither taught nor suggested by the cited references.

The Examiner in the Office Action dated June 30, 2005 stated,

> "It would have been obvious to one of ordinary skill in the art to use a two wheel system such as disclosed in Minekane in the analyzer of Tersteeg to decrease the time needed for the reagent vessels to move throughout the system and be filled with reagent."

The Applicant respectfully disagrees. Minekane teaches the use of a circular incubation path for reaction tubes and a separate circular reagent containers storage area. When reagents are needed for a particular sample analysis, liquids are aspirated out of the reagent containers (called reagent vessels) and dispensed into a reaction tube. In the prior art, as more reagent containers were added (e.g., for an expanded menu or for greater test capacity) the single reagent containers storage wheel would grow large, causing space constraints and long reagent container access times. Minekane overcomes this problem by adding additional wheels of reagent containers (reagent vessels) accessible to a pipettor (reagent-distributing nozzle) that can move reagents from the storage containers to the reaction tubes. (Minekane, column 2, line 63-column 3, line 7).

Therefore, Minekane uses two different types of vessels in the inner and outer wheels. In Minekane, reagents from the reagent containers in an outer wheel are removed and added to reaction tubes in an inner wheel. Consequently, the reaction tubes cannot be transferred from the inner wheel to the outer wheel as the outer wheel already has reagent containers from which reagents are removed and pipetted into the reaction tubes in the inner wheel. In contrast, the present invention uses the same vessels in the inner and outer wheels.

It is an aspect of the present invention that the circular incubation path of prior art analyzers be replaced with a dense packed, random access wheel that can move either clockwise or counter-clockwise to provide flexible incubation times not available in the cited references. Reaction vessels can be moved at programmable

times from any position in the dense packed, random access wheel to the wash and read wheel. (Applicant's specification, at page 3, lines 4-12; page 7, lines 4-16). Thus, by allowing the transferring of vessels from the inner wheel to the outer wheel, flexible incubation times can be obtained.

Kerr fails to teach or suggest an inside and outside rotary wheel and is not relied upon by the Examiner for such. Instead, the Examiner relies on Kerr for teaching a slide analysis system comprising a slide holding module and a incubator module, wherein the system further includes a pick and place mechanism.

In light of the foregoing, Applicant respectfully submits that the references discussed above could not have rendered the present claims obvious, because the combination of references fails to teach or suggest each and every claim limitation.

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Reexamination and reconsideration of the application, as amended, are requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California telephone number (213) 337-6700 to discuss the steps necessary for placing the application in condition for allowance.

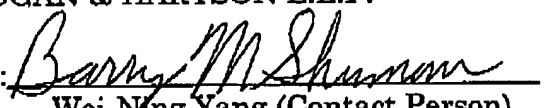
Appl. No. 09/811,028
Amdt. Dated October 28, 2005
Reply to Advisory Action of October 3, 2005

Attorney Docket No. 81841.0154
Customer No. 26021

If there are any fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-1314.

Respectfully submitted,
HOGAN & HARTSON L.L.P.

Date: October 28, 2005

By: 
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